

## REMARKS

Claims 2-78 are pending. Claims 2-3, 19-34 and 51-57 are allowed. Claims 4-18 and 35-50 are rejected.

Claims 4-14 have been amended to correctly depend on independent claim 2. Claims 16 and 35 have been amended to recite that the nucleic acid sequences are “interposed between the first and second AAV TRs.” Support for these amendments are found throughout the specification. See, for example, page 3, lines 3-33; page 4, lines 1-4. No new matter has been added by virtue of these amendments and their entry are respectfully requested.

### *Claim Rejections Under 35 U.S.C. § 102*

Claims 16-18, 35-40 and 43-50 are rejected under 35 U.S.C. § 102(a) and (e) as being anticipated by During *et al.*

Applicants respectfully traverse. However, in order to expedite prosecution, applicants have amended independent claims 16 and 35 to recite that the nucleic acid further comprises a first AAV TR and a second AAV TR, and the first and second nucleotide sequences are interposed between the first and the second AAV TRs. Depend claims 17-18, which depend on independent claim 16, and claims 43-50, which depend on independent claim 35, include all the limitations of the amended independent claims. As such, During *et al.*, fails to teach each and every claims limitation of the instant invention.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claims 16-18 and 35-50 are rejected under 35 U.S.C. § 102(e) as being anticipated by Gao *et al.*

Applicants respectfully traverse. However, in order to expedite prosecution, Applicants have amended independent claims 16 and 35 o recite that the nucleic acid further comprises a

first AAV TR and a second AAV TR, and the first and second nucleotide sequences are interposed between the first and the second AAV TRs. Depend claims 17-18, which depend on independent claim 16, and claims 43-50, which depend on independent claim 35, include all the limitations of the amended independent claims. As such, Gao *et al.*, fails to teach each and every claims limitation of the instant invention.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

***Claim Rejections Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph***

Claims 4-15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicants have amended claims 4-15 to correctly depend on claim 2. No new matter has been added by virtue of this amendment and entry is respectfully requested.

**CONCLUSION**

In view of the foregoing, reconsideration and withdrawal of all rejections and allowance of the application with claims 2-57 are respectfully solicited. The amended claims set forth, herein, are merely to expedite prosecution and allowance of the application and is not to be construed as surrender of any subject matter in the instant application. Applicants hereby reserve the right to pursue the subject matter of the canceled claims in one or more continuations, continuation-in-part or divisional patent applications.

If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at telephone number shown below.

In re Application of: Zolotukhin S.  
Application No.: 10/651,828  
Page 15 of 15

Although, Applicants believe that no further extensions of time are required with submission of this paper, Applicants request that this submission also be considered as a petition for any extension of time if necessary. The Commissioner for Patents and Trademarks is hereby authorized to charge the amount due for any retroactive extensions of time and any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing or during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,



Dated: November 10, 2006

---

Nicholas A. Zachariades, Reg. No. 56,712  
AKERMAN SENTERFITT  
222 Lakeview Avenue, Suite 400  
P.O. Box 3188  
West Palm Beach, FL 33402-3188  
Tel: 561-653-5000

Docket No. 5853-251